UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,862	12/12/2003	Gerald J. O'Connor	03-1088	1544

39310   7590   10/27/2009
MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

EXAMINER
VEZERIS, JAMES A

ART UNIT	PAPER NUMBER
3693	

NOTIFICATION DATE	DELIVERY MODE
10/27/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mbhb.com
williamsd@mbhb.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *1-12 and 35-39*.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-12 and 35-39* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-12 and 35-39* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Final Action

1.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Pre-Exam Formalities

2.   Claims 1 and 2 have been amended.

3.   Claims 1-14 and 35-39 are currently pending.

Response to Applicant's Arguments

4.   Applicant's arguments, see page 9, filed 6/24/2009, with respect to claims 1-14

and 35-39 being rejected under 35 U.S.C. 101, have been fully considered and are

persuasive. The 35 U.S.C. 101 rejections of claims 1-14 and 35-39 have been

withdrawn.

5.   Applicant's argument, see page 9, filed 6/24/2009, with respect to claim 2 being objected under 37 C.F.R. 1.75(c) has been fully considered and found persuasive. The objection of claim 2 has been withdrawn.

6.   Applicant's arguments, see page 9-11, filed 6/24/2009, with respect to claims 1-14 and 35-39 being rejected under 35 U.S.C. 103, have been fully considered but they are not persuasive.

7.   With respect to the applicant's argument that Ram fails to disclose "defining a first trading strategy comprising a first plurality of trading rules to be executed based on a comparison of the estimated event value to the actual event value" examiner disagrees. Paragraphs 250-253 of Ram disclose a trading system where a user enters a trade amount "their estimate value" and waits to see if the "actual event value" is within their comparison rules. The fact the values come from an exchange is made up for in the art of Lange which shows tradings and auctions based on news, not originating from an exchange, such as "weekly total load demand" and "average price of electricity in kilowatt-hours". Examiner recommends the applicant should further limit their language to work around the 103 rejection given. As it stands the claim language is very broad and the examiner is reading it in a broad sense due to the number of fields a system as the applicant claims could cover, such as sporting events, wars, etc.

8.   With respect to the applicants argument that Ram does not teach "selecting a trading rule and executing the trading rule" examiner disagrees. In Ram the user selects the type of auction, arrival time, departure time...etc. These are being read as the

trading rule since it sets the limits of the trade. Again the examiner is reading the

applicant's language broadly and believes the claim language should be.

35 U.S.C. 103(a)

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
         obviousness or nonobviousness.

11.   Claims 1-12 and 35-39 are rejected under 35 U.S.C. 103(a) as being

unpatentable over US PG-Pub 2006/0069635 to Ram et al. (Hereinafter "Ram") in view

of US PG-Pub 2002/0147670 A1 to Lange. (Hereinafter "Lange")

Regarding Claims 1 and 2:

        Ram teaches:

defining by the computer device a first trading strategy comprising a first plurality of trading rules to be executed based on a comparison of the estimated event value to the actual event value; (See Paragraph 250-253)

receiving by the computer device the actual event value; (See Paragraph 250-253)

receiving by the computer device an estimated event value for the news event prior to announcement of the actual event value; (See Paragraph 250-253)

selecting by the computer device a trading rule of the first plurality of trading rules corresponding to the first trading strategy based on a comparison of the actual event value to the estimated event value; and (Paragraphs 286-289)

executing by the computer device the selected trading rule, wherein executing the selected trading rule comprises generating a transaction message to be sent to the exchange. (Paragraphs 286-289)

Ram fails to teach:

receiving by a computer device a news data feed originating from a source other than an exchange, wherein the news data feed provides an actual event value for a news event, wherein the actual event value is to be announced at a later time;

Lange teaches:

receiving by the computer device a news data feed originating from a source other than an exchange, wherein the news data feed provides an actual event value for a news event, wherein the actual event value is to be announced at a later time; (See Lange Paragraphs 501-508)

It would have been obvious to one of ordinary skill in the art to include in the method of Ram the ability to receive news from a data feed other than an exchange as taught by Lange since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 3:

Ram further teaches the estimated event value comprises an estimated news-related event indicator value, and wherein the actual event value comprises an actual news- related indicator value. (See Paragraph 250-253) Examiner notes that due to the combination in claim 1 the indicator values taugh in Ram can now be construed as news-related.

Regarding Claim 4:

Ram fails to further teach the event value and the estimated event value are received directly from a news source through the news data feed.

Lange teaches the event value and the estimated event value are received directly from a news source through the news data feed. (See Lange Paragraphs 501-508)

It would have been obvious to one of ordinary skill in the art to include in the method of Ram the ability to receive news from a data feed other than an exchange as taught by Lange since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function

as it did separately, and one of ordinary skill in the art would have recognized that the

results of the combination were predictable.

Regarding Claim 5:

Ram further teaches displaying the estimated event value in a first graphical

format on a graphical user interface. (See Paragraph 250-253)

Regarding Claim 6:

Ram further teaches upon receiving the actual event value, displaying the actual

event value in a second graphical format on the graphical user interface. (See Fig. 25)

Regarding Claim 7:

Ram further teaches the actual event value and the estimated event value are

input by a user via the graphical user interface. (See paragraphs 250-253)

Regarding Claim 8:

Ram further teaches displaying the first plurality of trading rules corresponding to

the first trading strategy defined in relation to the estimated and actual event values

being displayed via the graphical user interface. (See Paragraph 250-253, 232, 256,

257)

Regarding Claim 9:

Ram further teaches the estimated and actual event values are displayed using

different indicators. (See Paragraph 250-253, 232, 256, 257)

Regarding Claim 10:

Ram further teaches defining a second trading strategy comprising a second plurality of trading rules to be applied based on a comparison of the actual event value to a revised event value to be announced at some later time;

receiving the revised event value;

selecting a trading rule of the second plurality of trading rules based on a comparison of the revised event value compared to the actual event value;

executing the selected trading rule of the second plurality of trading rules corresponding to the second trading strategy.

(See Paragraph 250-253, 232)

Regarding Claim 11:

Ram further teaches displaying the revised event value in a third graphical format on the graphical user interface. (See Paragraph 250-253, Fig. 25)

Regarding Claim 12:

Ram further teaches the revised event value comprises a revised news-related indicator value. (See Fig. 25)

Regarding Claim 35.

Ram further teaches:

sending the transaction message to the exchange. (Paragraphs 286-289)

Regarding Claim 36.

Ram further teaches the transaction message comprises an order transaction message. (Paragraphs 286-289)

Regarding Claim 37.

Ram further teaches the order transaction message comprises an order

message to buy or sell a tradeable object. (Paragraphs 286-289)

Regarding Claim 38.

Ram further teaches the order transaction message comprises an order cancel

request message. (Paragraphs 286-289)

Regarding Claim 39.

Ram further teaches the order transaction message comprises an order change

request message. (Paragraphs 286-289)

13.   Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ram in view of Lange in further view of US Patent 4,853,854. (Hereinafter "Behar")

Regarding Claim 13:

Ram fails to further teach: displaying on the graphical user interface a time left

before the actual event value is released.

Behar teaches displaying on the graphical user interface a time left before the

actual event value is released. (See Fig 9)

It would have been obvious to one of ordinary skill in the art to include in the

Method of Ram the ability to keep track of time as taught by Behar since the claimed

invention is merely a combination of old elements, and in the combination each element

merely would have performed the same function as it did separately, and one of

ordinary skill in the art would have recognized that the results of the combination were

predictable.

Regarding Claim 14:

Ram fails to further teach once the actual event value is received, displaying a time since the release of the actual event value.

Behar teaches once the actual event value is received, displaying a time since the release of the actual event value. (Col 15 Line 16)

It would have been obvious to one of ordinary skill in the art to include in the Method of Ram the ability to keep track of time as taught by Behar since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. VEZERIS whose telephone number is (571)270-1580. The examiner can normally be reached on Monday-alt. Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/   /JAMES A VEZERIS/
Supervisory Patent Examiner, Art Unit 3693   Examiner, Art Unit 3693

10/21/2009